

DFW

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

4

Application Number	10/826,885
Filing Date	April 16, 2004
First Named Inventor	John J. Waycuilis
Art Unit	1764
Examiner Name	Tam M. Nguyen
Attorney Docket Number	200306 USA

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	Return receipt postcard
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Reply to Missing Parts/ Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		

Remarks

Amendment is in the form of a "Request for Reconsideration Without Amendment Under 37 C.F.R. § 1.111"

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Law Office of Jack E. Ebel		
Signature			
Printed name	Jack E. Ebel		
Date	January 31, 2006	Reg. No.	28,148

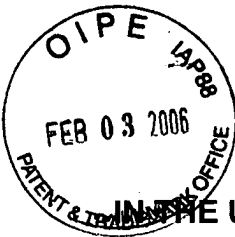
CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	Jack E. Ebel	Date	January 31, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: John J. Waycuilis	Examiner: Tam M. Nguyen
Serial No.: 10/826,885	Group Art Unit: 1764
Filed: 04/16/2004	Confirmation No.: 1419
For: PROCESS FOR CONVERTING GASEOUS ALKANES TO LIQUID HYDROCARBONS	Atty. Docket No.: 200306 USA

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

I HEREBY CERTIFY THAT this correspondence is being deposited with the U.S. Postal Service with sufficient postage via first-class mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature: _____

Jack E. Ebel

Date: _____

JANUARY 31, 2006

Dear Sir:

January 31, 2006

REQUEST FOR RECONSIDERATION WITHOUT AMENDMENT
UNDER 37 C.F.R. 1.111

In the matter of the captioned application and in response to the first Office Action dated October 31, 2005, Applicant respectfully requests reconsideration and allowance of claims 1-20 which are deemed patentable over the rejection of record for the reasons hereinafter advanced.

Claims 1-20 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting ("ODP rejection") as being unpatentable over claims 1-22 of copending U.S. patent application no. 11/101,886. The Examiner commented that "[t]his is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented."

U.S. patent application serial no. 11/101,886 which was filed on April 8, 2005 is a continuation-in-part of the instant U.S. patent application serial no. 10/826,885 which was filed on April 16, 2004. The claims of the instant parent application are rejected

under the ODP rejection over the claims of the later filed, copending, continuation-in-part application.

M.P.E.P. §804 I.B. "Instances Where Double Patenting Issue can be Raised between Copending Applications-Provisional Rejections" states that "[t]he "provisional" double patenting rejection should continue to be made by the examiner in each application as long as there are conflicting claims in more than one application unless that "provisional" double patenting rejection is the only rejection remaining in at least one of the applications." Further, M.P.E.P. §804 I.B.1. "Nonstatutory Double Patenting Rejections" states that **"If a "provisional" nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer. ...If "provisional" ODP rejections in two applications are the only rejections remaining in those applications, the examiner should withdraw the ODP rejection in the earlier filed application thereby permitting that application to issue without need of a terminal disclaimer. [emphasis added]"**

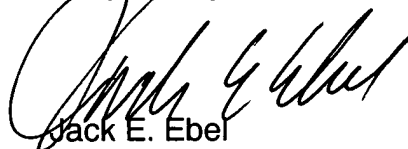
As the instant application is the "earlier filed application" and as the ODP rejection is the only rejection of record, the need for filing a terminal disclaimer in the instant application is obviated and the ODP rejection of claims 1-20 as being unpatentable over claims 1-22 of copending U.S. patent application no. 11/101,886 should be withdrawn.

Further, Applicant wishes to bring to the Examiner's attention U.S. patent application serial no. 11/254,438 which was filed on October 19, 2005 and is entitled "Process for Converting Gaseous Alkanes to Olefins and Liquid Hydrocarbons". This application is a continuation-in-part U.S. patent application serial no. 11/101,886 which was cited in the first Office Action. U.S. patent application serial no. 11/254,438 does not constitute prior art with respect to the captioned application.

Atty. Docket No.: 200306 USA

In view of the foregoing, Applicant requests reconsideration and allowance of claims 1-20.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jack E. Ebel", written over the printed name.

Jack E. Ebel

Attorney for Applicant

Reg. No. 28,148

(303) 980-1805

Facsimile: (303) 980-1808